

**Minutes of the Carlisle Board of Health  
March 17, 2009**

Present: Board Members Jeff Brem (Chairman), Chris Deignan, Bill Risso, and Michael Holland; absent - Leslie Cahill; also present: Linda Fantasia (Agent), Mark Caddell (BOH candidate), Laura Scholten (Carlisle Mosquito).

The meeting was called to order at 7:35 p.m. at the town hall.

**MINUTES** – It was moved (Risso) and seconded (Deignan) to approve the minutes of 2/7/08. Motion passed 3-0-0. It was moved (Risso) and seconded (Deignan) to approve the minutes of 2/10/09. Motion passed 3-0-0.

**BILLS** – It was moved (Risso) and seconded (Deignan) to approve the bills as presented. Motion passed 3-0-0.

**ADMINISTRATIVE REPORTS**

Manure Complaint – Fantasia reported on a call from Police Dispatch 3/13/09 about dumping of manure on Curve Street. It was an anonymous complaint. She assumed it was connected to the previous complaints filed with the Board relative to Great Brook Farms transportation of manure to the field at the corner of Fiske and Curve Street. Neighbors are upset that the manure falls from the tractor onto Curve Street. The trips are also occurring late in the evening. Fantasia had done a site visit in January and observed manure piles in the street. She had spoken with Mark Duffy of Great Brook Farms. He had agreed to contain the manure during transport. The situation had improved for awhile. Duffy plans to purchase new equipment which should alleviate the drip. The Board also sent a memo to Conservation since it is town conservation land being farmed under an agricultural agreement. The Commission responded that they had no jurisdiction over street problems. The Board agreed that littering in a roadway would be a police problem. Risso offered to follow up if another complaint is made since he lives in the area.

PH Region 4A Budget Reduction – At the last meeting Coalition voted to change funding allocation, reducing amount to small towns (Carlisle loses 54%). This was in opposition to the February vote for equal distribution. There is a question of whether the vote was legal according to Fantasia and some of the other smaller communities. DPH is looking into it. The Board agreed that it is in favor of equal distribution and is willing to write a letter of support.

Rabies Clinic was held on 3/8/09. Twenty four 24 cats and dogs were vaccinated. Thank you letters were sent to Dr. Rule and Bob Dennison. The Board suggested noting the date of the next clinic on the census form. Dr. Rule offered to do a talk on Lyme disease in pets. The Board is interested.

FY10 Fincom recommendation - Risso attended the Fincom meeting. They are recommending no changes for FY10. Brem had received an email from Fincom chairman. The Board did not know whether the \$473 had been restored for this year. Fantasia will check.

Septic Loan Program – Brem signed the agreement for the first \$10,000. No applications have been filed yet.

Mosquito Control Program – The Board decided to remove the warrant article asking the town to join EMMCP to be funded through donations. The Board felt there are a number of lengthy issues before the voters and still too many questions on the effectiveness of the program in reducing incidences of disease. The Board will notify the Selectmen. This does not mean the Board will not look into it in the future.

Lyme disease – The Board agreed to host an information meeting. Dr. Rule, DVM, is interested. Fantasia will check with Pat Huckery of Fish and Wildlife to see if she would participate since many residents have questions on controlling the deer population. It would also be good to have a medical person. Dr. Kafina of Emerson Hospital spoke at the 2005 event. Fantasia will follow up. Brem suggested televising the event on local cable. (Holland arrives)

**110 MAPLE STREET – discussion of proposed renovations. Present for the discussion were owners Mr. and Mrs. Pietropaolo.**

Mr. Pietropaolo described the need for more space for their family. After talking with a number of builders, the most practical solution is to tear down the house. Currently the house has three bedrooms and one bath. They hope to enlarge the house to four bedrooms. After checking with Stamski and McNary, it appears that it would be possible to add a trench to the existing system. This system was granted a waiver of 81' to wetlands when it was installed. A recent delineation shows that the wetland line has actually receded. Therefore although the existing system is a non-conforming one, the addition of another trench would not make the system any less conforming than originally approved. Before spending money on an engineered plan, the owners would like the Board's advice. They provided a conceptual plan prepared by Stamski & McNary. The Board agreed that the situation was unique because of the change in the wetland line. In order to proceed, the owners would need to justify what would in effect be new waivers for the septic design. This would require a public hearing. The Board would also want a garbage grinder deed restriction. Since local regulations do not allow the use of non-conforming systems for a new house, the applicants will need to prove that there is an environmental benefit in the proposed design. This must include an alternative analysis showing the impacts of a compliant system and reasons why adding to the existing system is environmentally more sensitive. The Conservation Commission must also approve the new wetland line. The Board agreed that previous testing showed limited areas for siting a new system; there would be less disturbance to add on to the system rather than installing a new one; it appears that the wetland line has receded, which is unusual. The Pietropaolos will follow up with Stamski & McNary on the redesign.

**GENERAL BUSINESS**

- Great Brook Farm – Environmental Notification Form for dredging pond; comments due by 3/31/09
- Planning Board memo – Comp Permit Regs – emailing 3/18/09
- USGS Well Testing Survey– In folders: letter to editor 3/13/09; correspondence from John Colman; email from Tony Mariano; memo from Gretchen tabulating our test results

**PROPOSED REVISIONS TO TOWN OF CARLISLE WATER SUPPLY REGULATIONS**

It was moved (Risso), seconded (Risso) to open the public hearing. Motion passed 4.0.  
Brem noted that the hearing would be recorded.

Brem opened the hearing by reading a statement from DEP that under Mass Gen Laws Ch 111, sec 122, local Boards of health have primary jurisdiction over the regulation of private wells and under the authority of Mass Gen Laws Ch 111, Section 31, the Board of Health is authorized to adopt Private Well Regulations that establishes a criteria for private well siting, construction, water quality and quantity. In towns that have both public and private wells, which is the case in Carlisle, private wells benefit from the same level of protection required for public water supplies. Brem further explained that the current regulation was last revised in 1997 and therefore is in need of updating. The Board has been working on proposed revisions. The proposed draft is based on DEP's "Model Board of Health Regulation for Private Wells". Although DEP has no direct role in regulating private wells, they do provide support to local approving authorities.

Brem read through the definitions and noted that some of the new items were for clarification purposes. Other revisions address permitting requirements, water quantity, water quality testing and enforcement. Well construction has remained the same. Some issues to be addressed: irrigation wells – need definition. Bill asked about putting a cap on withdrawal. This was done for Coventry Woods. The Board will review the Coventry Woods application. Even with a cap, this could be overturned if it was a high yielding well. The draft has a definition but does not address a cap. The Board agreed to add a sentence to include a maximum high yield for irrigation wells based on Coventry Woods.

Brem asked for Board questions. Risso wanted all wells to have transducers, not just drinking wells. Sec VII B of the 2/10/09 draft addresses monitoring. Monitoring requires permission of well owner. The Board changed the wording to electronically 'monitored'. The Board discussed who can take a sample – homeowner or the Board's

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agent. Fantasia noted that DEM should be DCR. Changes will be made. They handle the Well Drillers Registration Program. She also recommended changing the water quality testing parameters after speaking with David Knowlton of Nashoba Analytical Labs. A previous Board added Selenium, but she was not sure why. Selenium is not part of the basic package. It would cost more. Knowlton said it would be unusual to test for it except for PWS. In the testing they did over the last two years there has never been a measured level in excess of the recommended MCL. He also recommended Conductivity in lieu of TDS. It is directly proportional and part of the package. TDS would cost more. Multiplying Conductivity by .7 gives a direct proportion of TDS. This is more cost effective for the same result. Holland did not have a problem eliminating Selenium and exchanging Conductivity in lieu of TDS. Knowlton said definitely test for Arsenic. Fantasia also noted that an inspectional procedure was eliminated. The Board agreed to add an inspection procedure. (Section IX at the end of first sentence). The Board “may” inspect so it is not a requirement.

The Board then referred to comments submitted by Greg Peterson and Michael Epstein as individuals. Both are members of the Planning Board. Epstein asked whether the irrigation well would be counted with the other wells in determining classification and connectivity. Brem said the irrigation well would be included in both classification and monitoring. There will be a cap on the irrigation well. Peterson then asked whether the regulations allow repurposing of a well and should this be prohibited. Holland said this refers to a change in use. If used for a larger development it would need to be tested. A well permitted for a single family would need a new permit to be used for a multi-family. The Board agreed this was sufficiently addressed. Brem asked what would happen if they went from one to three units and the well was sufficient. Should they reapply? Brem did not think they would. The well has a certain yield limit. The permit approves the well not the project. The minimum yield is part of the state sanitary code – potable flow per well. Deignan thought it was 2 gpm for a single family. But if a family renovated a single family to a three unit what would the yield need to be? This is a good question. Holland said the well permit requirements do not deal with yield. They are based on storage capacity. Brem read the depth/quantity requirements and minimum flow for a wash well of 15 gpm. Section VII the Board should have a well yield established per unit. The Board asked Fantasia to check with the state including the state sanitary code.

Brem then asked to table discussion to after a scheduled hearing. It was moved (Risso) and seconded (Deignan) to table discussion until 8:30 pm. Motion passed 4-0-0.

**PH 278 SOUTH STREET –Waivers requested: Title 5 Local Upgrade Approval - 15.211 Distances – soil absorption system to wetlands, 50’ required; 30’± provided; Town of Carlisle Supplementary Sewage Disposal Regulations: 15.211 Distances – leaching area to wetlands, 100’ required, 30’± provided and 15.100 General Provisions - A Pre-existing Non-Conforming System shall not be used to support the construction of a new dwelling or the rebuilding of a demolished dwelling in a new or the same location until the system is brought into full compliance with Title 5 and local regulations; applicant proposes to demolish and rebuild house in same location with no increase in required septic system capacity.**

**Plan entitled: “Proposed Construction Plan, 278 South St., Carlisle MA, designed by Alan Engineering, dated March 6, 2009”:**

The hearing was opened. Mark Sleger, Alan Engineering, presented on behalf of the owners. Sleger explained that the septic system was replaced in 1982. It did not require any waivers except for the septic tank which was 51’ from the well. Sleger had calculated that capacity of the three bedrooms which because sidewall area is not counted would meet the current requirement for a three bedroom system (495 GPD). A recent delineation of the wetland shows that it has increased in size. The closest point to the existing system is 31’. No changes are being proposed for the system. The owners plan to demolish the house and rebuild in the same location with no increase in flows to the system. The house is in severe disrepair and not up to code. It would cost more to renovate than rebuild. The applicant is asking the Board to grant a waiver on setback distance to wetlands in order to make the existing system a legal non-conforming system. Additionally a waiver is required in order to demolish and rebuild the house because the system is non-conforming. There is no other location on the property to replace the system based on previous testing that indicated significant ledge. Upgrading the system would cause significant environmental disturbance. The tank will be upgraded to a dual compartment tank. Since it is 51’ from the well it does not require a waiver. The system passed a Title 5 Inspection recently and is functioning.

The Board agreed that the applicant had presented sufficient documentation to allow the rebuilding of the house in the same location with the same septic capacity, using the existing non-conforming system which is functioning.

In granting the waivers, the Board made the following findings:

- The existing system which was installed in 1982 met the 100' setback to wetlands; the wetland has increased in area since 1982 and is currently 30'± to the leaching area.
- The system passed a Title 5 Inspection in 2004 and again in 2009; although the existing system is now non-conforming it was fully compliant with Title 5 when originally permitted.
- No changes are proposed to the existing leaching area; the septic tank will be upgraded to a dual compartment tank; the upgraded septic tank complies with state and local regulations.
- There will be no increase in flows to the system which will remain as a three bedroom capacity.
- Evidence provided demonstrates that there is no alternative for constructing a fully compliant system. Renovation of the existing house is not economically feasible due to its current condition; the existing house will be demolished and rebuilt in the same location.
- The lot is a legal two acre lot.

Special Conditions:

- Conservation Commission must approve the wetland delineation and the scope of work.
- All items noted in the engineering review dated 3/17/09 for the septic tank replacement must be addressed prior to issuance of a construction permit.

It was moved (Risso) and seconded (Deignan) to grant a waiver from Carlisle Supplementary Regulations 15.211 Distances and 15.100 General Provisions, as described above, for 278 South Street with the conditions as noted and in accordance with the referenced plan. Motion passed 4-0-0

It was moved (Risso) and seconded (Deignan) to close the public hearing. Motion assed 4-0-0.

**Lot 3 B Concord Street** – Holland recused himself since he is an abutter.

The proposed plan is for new construction. The initial design did not have sufficient testing within the leaching area. The revised plan shows a conventional Title 5 system which captures the testing and a Cultec system which will actually be built. Some of the testing occurred before 1995 and was not soil evaluated. Testing was done in high water season. An additional soil evaluated test pit was done this year. The design is based on a combination of pre-1995 high water testing and out of season soil evaluated test pits. An alternative technology system (Cultec) is proposed. The soils appear consistent throughout the site. The Board agreed that the testing was sufficient for the proposed design. The Board has a policy to accept testing even if not fully compliant as long as it is appropriate to the site based on its consultant's witnessing of the soils and conditions of the site. The Board agreed to grant a construction permit. (Holland returned to the Board).

**PH Well Regulations continued**

The Board returned to the discussion on Well Regulations. Brem suggested reviewing the memorandum submitted by Greg Peterson and Michael Epstein on behalf of the Planning Board.

The Planning Board recommends that the Board set a threshold on well yield, including a cap on irrigation wells and that they be included when flow testing the drinking water wells. They would also like to require that a certain size well obtain a permit from DEP. The Board could set this threshold. The Board said that DEP already classifies communities' wells. The Board of Health cannot tell the state what to do. The Board has already included a maximum withdrawal for irrigation wells and flow testing at the same time as the private or community wells. Planning Board also suggests restrictions on the use of irrigation wells which might include sensors to prevent indiscriminate watering, or watering during droughts. Brem said sensors are basically inexpensive sponges that do not work very well. People get upset when they see an irrigation system in use when it raining. Holland pointed out that there is little evapo-transpiration on rainy days. It is a perception problem. As for keeping Zone I within

property lines, the Board felt the 25' setback was sufficient. Also if the Conservation Commission wants to allow wells on Conservation Restriction land that is up to the holders of the restriction. There is nothing in the Conservation Cluster that would prohibit wells in the CR, so there is no need for the Board of Health to have a carve out area. These decisions are up to the Planning Board during its review. Planning Board suggests that the Board of Health have a Memorandum of Understanding with DEP which would be included in DEP's review of community wells (PWS). Holland said that DEP has total authority over PWS. There is sufficient protection and flexibility in its review. DEP is not going to write out pre-agreements with individual towns. Local authorities can always comment on a specific application. As for aggregation of private wells, this is already covered in the new regulation on well fields. The Peterson memo raised the concern of segmentation. Brem said segmentation is breaking up a development into separate legal parts in order to avoid permits. The Board can still review the development as one project which it would do under its provision for identifying well fields when there is more than one well being developed in a particular area.

The Board then considered Planning Board's edits on the various sections, making changes where appropriate. As for "Alteration" of a well the Board agreed that permits are required to work on an existing well which includes replacing a pump and increasing flows by hydrofracture. The current fee is \$100 per well and \$100 per pump. The Planning Board would like the Board to increase the distance to abutter's wells shown on plans. Contaminants are capable of flowing much greater distances. The Board agreed that it needed to set a limit at some point. Abutters' wells within 200' need to be shown on a plan. There is no requirement for notification to abutters for a new well. References to DEM have been changed to Department of Conservation and Recreation (DCR). The twenty-five foot setback is sufficient. The 25' is from the roadway which includes private roadways. The Board saw no reason to change it. Wells can be located in a flood plain. Planning Board asked for clarification on the 2000GPD septic capacity for an increase in well setbacks. The Board noted that the septic setbacks are based on Title 5 and the 2000GPD is a DEP threshold. This is not a local issue. As for water quantity, flow tests are part of the permitting process. The town's well inspector monitors them. Well yield was based on DEP's model regulation. (Holland leaves meeting). The Board asked Fantasia to check on current FHA/VA requirements and add as a footnote. As for a 500' radius for monitoring abutting wells, the Board felt this was a reasonable distance. The developer would pay for the monitoring. The Board increased testing parameters for water quality. There is no testing for viruses or parasites. Testing could be done for phosphorous, but it is not part of the standard package. Residents would need to pay extra. The Board decided to stay with the state's recommendations. All wells are tested when drilled and upon transfer of the property. The Board agreed to exclude interfamily transfers identified in Title 5. Fantasia will add this as a footnote. Testing can be done by anybody. Realtors typically do this when marketing a property. As for requiring financial guarantees for wells serving large developments, the Board agreed that in most cases the state would handle this. The Board agreed to include some additional terms for clarification as noted in Peterson's memorandum. No qualifications needed for sampling. No need to including abutters or monitoring wells when initial water testing.

The Board then considered an email from David Freedman of the Planning Board which included comments from Planner George Mansfield. Freedman suggests identify impacts and regulating actions required. Risso was concerned that there is no precise way of identifying impacts or appropriate remedies. If an abutter's well shows a small reduction in standing water is that an impact? Will it make a difference to the homeowner? Brem noted that even the Coventry Woods well experts were not able to come to agreement on impacts and remedies. A Board cannot anticipate every situation. One regulation will not cover all cases. If there is a problem, the applicant or abutter can come to the Board. Even if an impact can be shown, it may be difficult to determine who is at fault and who needs to remedy the problem. That is what the courts are for. Risso asked why the Board would even monitor if there is no redress. Fantasia noted that if monitoring detects a problem the local authority could require a peer review. Brem agreed stating that it is better to start dealing with impacts in the preliminary stage and then have the parties involved resolve it. The Board can help identify the problem for further action by the owners. If the parties do not agree, the Board can force a resolution such as requiring a new well to be drilled. This does not need to be in the regulation since it is within the Board's statutory powers. Over regulating is no way to prevent lawsuits. They may happen anyway. Risso asked what would have happened if the Coventry Woods development caused a 13-14" drop in static level of abutting wells. Would the Board have had the authority to address it? Brem said that is why the Board preferred having the wells tested during a dry season. It is also why the Board asked for a cap on irrigation wells as a precaution. The Board could also have asked for storage tanks. There were a number of options

available. There is no need to state these in a local regulation. The Board's authority to address public health issues is clearly stated in Mass. General Laws. There is no need to address every aspect in a local regulation.

Brem asked if there were any additional comments from the Board or audience. There were none.

It was moved (Risso) and seconded (Deignan) to close the public hearing. Motion passed 3-0-0.

A final draft including tonight's changes will be prepared for the next meeting at which time the Board will take a vote.

There was no further business discussed. Meeting voted to adjourn at 10:00 pm.

Respectfully submitted,

Linda M. Fantasia  
Recorder